

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No.590/03

Bilaspur, this the 9th day of September, 2004.

C O R A M

Hon'ble Mr.M.P.Singh, Vice Chairman
Hon'ble Mr.Madan Mohan, Judicial Member

Bhagwandas (Compulsorily
retired as Auto Fitter Skilled)
Vehicle Factory, Jabalpur.
R/o Kevlari, Post Kundra,
Khara, Post Office Panagar
Dist. Jabalpur.

Applicant

(By advocate Shri Mahesh Pandey)

Versus

1. Union of India through
Secretary, Ministry of
Defence Production
South Block, New Delhi.
2. Director General/Chairman
Ordnance Factory Board
10-A Shaheed Khudiram Bose Marg
Kolkata.
3. The General Manager
Vehicle Factory, Jabalpur.

Respondents

(By advocate Shri S.P.Singh)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicant has sought the following reliefs:

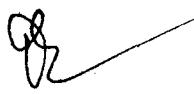
- (i) To quash the impugned order of compulsory retirement dated 29.5.95 (Annexure A1); order dated 16.11.98 (Annexure A2) passed in appeal and the order dated 31.1.2000 (A3) passed by reviewing authority and declare them as illegal, unconstitutional and against the principles of natural justice, which is contrary to Articles 14 & 16 of the Constitution of India.
 - (ii) To direct the respondents to reinstate the applicant in service with all consequential benefits including backwages.
2. The brief facts of the case are that the applicant was a regular/permanent employee of the Vehicle Factory, Jabalpur and completed 14 years of service, on 15.1.93, the General Manager, Vehicle Factory, Jabalpur issued a suspension order of the applicant, followed by a charge sheet dated 10.6.93. Thereafter an enquiry was conducted and charges being proved, the applicant was inflicted



a punishment of compulsory retirement (Annexure A1). Applicant preferred an appeal against the order of penalty and the appellate authority, without application of mind and to the facts of the case on record, dismissed the appeal arbitrarily by order dated 14-11-98 (Annexure A2). Applicant preferred a review petition which was also rejected by order dated 31-1-2000/29-2-2000 (Annexure A3). Similarly situated persons who were also imposed punishment of compulsory retirement on the same set of charges had filed original applications and in view of the orders of the Tribunal, the respondents considered the claims of the incumbents in those OAs and granted them reliefs and as a result of that, the incumbents in those cases were reinstated in service. But they did not consider the case of the applicant herein. Hence this OA is filed.


3. Heard learned counsel for both parties. It is argued on behalf of the applicant that no opportunity of hearing was given to the applicant. The orders passed by the disciplinary authority and the appellate authority are not speaking orders and without application of mind and they have not considered the facts and circumstances of the case of the applicant. Both orders are arbitrary and illegal and in similarly situated cases in which compulsory retirement was imposed, the incumbents were ultimately reinstated in service by the respondents. It is a clear case of discrimination against the applicant and the applicant is highly prejudiced by the action of the respondents and that the punishment awarded to him is too harsh. Hence the OA deserves to be allowed.

4. In reply, learned counsel for respondents argued that the present OA is hopelessly barred by limitation



as the reviewing authority had passed orders on 31.1.2000 while this OA was filed on 25.8.03. No reasonable explanation has been given by the applicant for the delay in filing this OA. The charges against the applicant are proved. Due opportunity of hearing was given to him and the charges are very serious in nature. The counsel denied that similarly situated persons who were also imposed compulsory retirement on the same set of charges were reinstated in service. Each case has been dealt with on its own merit. The case of the applicant is quite different being time barred and hence he does not deserve any lenience and therefore, his plea is not tenable. The orders passed by the authorities concerned are speaking orders and having reasons for passing these orders. No irregularity or illegality has been committed by the respondents in conducting disciplinary proceedings and in passing the impugned orders.

5. After hearing the learned counsel on either side and carefully perusing the records, we find that due opportunity of hearing was given to the applicant. The applicant filed a representation against the charge sheet and also filed an appeal dated 11.7.95. He also filed a review petition against the order passed by the appellate authority dated 16.11.98 (Annexure A2). Hence it cannot be said that due opportunities were not given to the applicant. In so far as the question of similarly situated persons for whom the respondents had taken a lenient view and reinstated them in service, as argued on behalf of the applicant, it is denied by the respondents with the argument that the case of the applicant is quite different from those persons and no discrimination has been caused to the applicant.



The applicant has not filed ^{any} copy of the chargesheet ^{by which} and ^{from} another document ^{from him} it can be gathered as to whether the allegations against them are exactly similar to the applicant. It was the duty of the applicant to file these concerned documents for consideration of ^{the} this point. The punishment awarded seems to be not too harsh, as the charges levelled against the applicant are serious in nature. We have perused the impugned orders. These are perfectly speaking orders having reasons and the charges against the applicant are proved by the enquiry officer after conducting a detailed enquiry and this is not a case of no evidence and the Tribunal cannot reappraise the evidence.

6. Considering the facts and circumstances of the case, we find no merit in the OA and the OA is dismissed. ^{No costs}

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

aa.

पूजांकन सं ओ/न्या.....जबलपुर, दि.....

अवधि:-

- (1) न्यायालय बार एसोसिएशन, जबलपुर
- (2) नती/कु.....के काउंसल M. P. Tiwari
- (3) नती/कु.....के काउंसल SP Singh
- (4) ज. जबलपुर न्यायपीठ

सं. आवश्यक कार्यवाही हेतु

उप-रजिस्ट्रार

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